



### BASIS FOR THE AMENDMENT

An abstract has been added as requested by the Examiner. The new abstract is supported by the specification and by the abstract of PCT/FR98/01999, filed September 17, 1998, from which this application claims priority.

No new matter is believed to have been added by entry of this amendment. Entry and favorable reconsideration are respectfully requested.

### REMARKS

The Office has required restriction in the present application as follows:

Group I: Claims 1-17, 19, 24, 26-37, drawn to nucleic acid, vector, host cell, and first method of using the nucleic acid to make a polypeptide;

Group II: Claims 21-22 and 25, drawn to isolated polypeptide;

Group III: Claims 38-41, drawn to a method of making an immunogenic composition.

Applicants elect, with traverse, Group I, Claims 1-17, 19, 24, and 26-27.

Applicants traverse the Restriction Requirement on the grounds that the product of Group II (Claim 21) is produced by the process of Group I (Claim 17). As such, the product and the process cannot be separated. Further, the claims of Group III are directly dependent from the claims of Group I and thus cannot be separated.

Applicants respectfully traverse the Restriction Requirement on the grounds that no adequate reasons and/or examples have been provided to support a conclusion of patentable distinctness between the identified groups or shown that a burden exists in searching all the claims.

Moreover, the MPEP in §803 states as follows:

“If the search and examination of an entire application can be made

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without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.”

Applicants respectfully submit that a search of all the claims would not impose a serious burden on the Office.

Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Restriction Requirement. Withdrawal of the Restriction Requirement is respectfully requested.

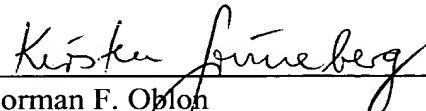
Finally, Applicants note that MPEP §821.04 states, "if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined." Applicants respectfully submit that should the elected group be found allowable, the non-elected claims should be rejoined.

Applicants note that an abstract has been added as requested by the Examiner.

Applicants respectfully submit that the above-identified application is now in  
condition for examination on the merits, and early notice of such action is earnestly solicited.

Respectfully submitted,

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**IN THE ABSTRACT**

Please insert the following abstract after page 28 on a separate page.

--Abstract

Recombinant polypeptides are prepared using novel nucleic acids with transcription promoter activity. The recombinant cells containing said nucleic acids are described. A novel method for preparing antigens or antigen fragments, in particular bacterial toxins, preferably *Clostridium* toxins, for preparing immunogenic and/or vaccine compositions is also described.--